

CITY OF PORTSMOUTH

Zoning Board of Adjustment Application

<i>Department Use Only</i>	Date _____
Assessor Plan # _____	Lot # _____ Fee _____
Zone _____	Lot area _____ By _____

Fill in below by printing in ink or typing / Complete all Blanks or indicate "N/A" if not applicable

Applicant Deer Street Associates Owner of Record same

Applicant Street Address P.O. Box 100 Owner Street Address _____

Applicant City / State / Zip York Harbor, ME 03911 Owner City / State / Zip _____

Applicant phone (207) 363-3540 Owner phone (____) _____

Applicant e-mail c/o tphoenix@hpgrlaw.com

Location (street address) of proposed work: Lot/Building 3, 165 Deer Street

Existing use: Retail (former Gary's Beverage)

Undersigned hereby requests:

	Article and Section
<input type="checkbox"/> Appeal from an Administrative Decision See Article 2, Section 10.234.30	
<input type="checkbox"/> Special Exception See Article 2, Section 10.232.20	
<input checked="" type="checkbox"/> Variance See Article 2, Section 10.233.20	Article 10, § 10.516.20; §10.11.14.21;
<input type="checkbox"/> Other _____ See Article 2, Section 10.233.20	§10.1114.32(a)

To permit the following:
Construction of a 5-story mixed use building with associated internal parking on the Property.

The undersigned alleges that the required conditions exist for granting of this request according to the terms of the Zoning Ordinance as demonstrated in the attached submittals.

Only complete applications will be accepted by the deadline date. A complete application shall consist of: a completely filled out application with original signatures, the application fee, and 12 packets of required plans and any supporting documents or photos. Incomplete applications will not be accepted. Applications received after the deadline will be scheduled for the following month. The owner or his/her representative is required to attend the Public Hearing for the above appeal.

Kim S. Rogers, Pres of Manager 4-21-17
 Signature of Owner Date

Please PRINT name here Kim S. Rogers

Applicant's Responsibilities

1. All applications for Variances and Special Exceptions must be submitted to the Planning Department prior to the published deadline. In the case of Appeals from an Administrative Decision, the appeal shall be filed no later than 30 days from the date of the action which is being appealed.
2. A Building Permit application must also be filed for the project for which zoning relief is being sought. The Building Permit application can be submitted with the Board of Adjustment application or filed prior. The Planning Department may waive this requirement when the application is for a substandard lot for subdivision purposes and no other zoning relief is required.
3. An applicant shall be one of the following: a) the owner of record of the property, or b) the holder of a valid purchase and sales agreement for the purchase of the subject property, or c) the holder of a valid option for the purchase of the subject property.
4. All applications shall include a written statement explaining how the request complies with the requirements of the Zoning Ordinance as provided in Article 2 (see Section 10.234.30 for Administrative Appeals, Section 10.233.20 for Variances, Section 10.232.20 for Special Exceptions).
5. It is the obligation of the applicant to submit adequate plans and exhibits in accordance with the terms of the Zoning Ordinance for all applications for Administrative Appeals, Variances, Special Exceptions, and Equitable Waivers.
6. One (1) original copy of a completed and signed "Board of Adjustment Application Check-List" shall accompany all applications.
7. For applications requesting dimensional relief, the minimum requirements for adequate plans shall include the following:

<ul style="list-style-type: none"> <input type="checkbox"/> Site Plan(s) showing existing and proposed conditions including: <ul style="list-style-type: none"> - Front, side and rear setback / yard dimensions (this is the distance from a structure to the lot line) - Lot dimensions - Abutting street(s) and street names - Driveways / accessways - Dimensions (size and height) of structures - Dimensions and location of parking spaces 	<ul style="list-style-type: none"> <input type="checkbox"/> Scale of all drawings and plans (the scale is the ratio of the drawing's size relative to the actual size) <input type="checkbox"/> Labeled photo(s) of existing conditions <input type="checkbox"/> Building plans and elevations of any <i>proposed</i> structures or additions <input type="checkbox"/> Interior floor plans for any renovations or expansion to existing structures
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8. For applications requesting relief from land use requirements, the minimum requirements for adequate plans shall include the following:

<ul style="list-style-type: none"> <input type="checkbox"/> Site Plan showing dimensions and location of parking spaces including the scale (the scale is the ratio of the drawing's size relative to the actual size) <input type="checkbox"/> Interior floor plans and/or exterior site plans showing the location of the proposed use(s) <input type="checkbox"/> Labeled photo(s) of existing conditions

9. Plans should be 8 1/2" x 11" in size, 11" x 17" plans may be used only if the plan would otherwise be unreadable.
10. The Planning Department is authorized by the Board of Adjustment to refuse applications which do not meet these minimum requirements. The Planning Department may also require additional information and/or exhibits as needed to illustrate the scope of the project. Public Hearings shall not be scheduled, advertised or held until such time as the minimum requirements for adequate plans have been submitted. The Board may postpone any application requiring more information prior to any action being taken.
11. The applicant shall submit one (1) original and eleven (11) copies of the application and any plans, exhibits, and supporting documents.
12. The applicant shall provide electronic files in Portable Document Format (PDF) of all submittals.

I have read the above list of responsibilities, have provided all required information, and such information is current, accurate, and complete to the best of my knowledge.

K. S. Rogers, Pres. of Manager

4-21-2017
(Applicant's Signature, Date)

The Applicant is encouraged to consider the following when completing the application:

- Provide neat and clear plans
- Use of color or highlights is encouraged in order to identify pertinent areas on plans
- Applicants are encouraged to review the application with a member of the Planning Department staff prior to submittal
- All applicants are encouraged to discuss the project with impacted neighbors

MEMORANDUM

TO: Portsmouth Zoning Board of Adjustment (“ZBA”)
FROM: R. Timothy Phoenix, Esquire
Kevin M. Baum, Esquire
DATE: April 26, 2017
Re: Deer Street Associates, Owner/Applicant
Project Location: 165 Deer Street, Lot/Building 3
Tax Map 125/Lot 17
Character District 5 (CD5); Downtown Overlay

Dear Chairman Rheaume and Zoning Board Members:

On behalf of Deer Street Associates (“DSA”), we are pleased to submit this memorandum and materials in support of Zoning Relief for Building/Lot 3 of the Deer Street Mixed Used Development Project.

I. Exhibits

1. Variance Plan Set – by JSA, Inc. and GeoInsight, Inc.
 - a. 4/25/17 Cover Sheet
 - b. 4/25/17 Character Zoning and Parking Summary Charts
 - c. 4/21/17 BOA Site Plan
 - d. 4/25/17 First Floor Plan
 - e. 4/25/17 Exterior Elevations (Sheets A2.01 and A2.02)
2. October 2016 Existing Conditions Site Plan – by Ambit Engineering, Inc.
3. 1/16/17 Declaration of Restrictive Covenants – granted by Boston and Maine Corporation for the benefit of Deer Street Association.
4. Example Parking Lift Cut Sheets – by KLAUS Multiparking.
5. Site Photographs.
6. Tax Map 125.
7. Variance Application (copy).

II. Property/Project

The subject property (the “Property”), located at 165 Deer Street and identified as Building/Lot 3 (**Exhibit 1**), is the former location of Gary’s Beverage, which was demolished April 17, 2017, and is currently vacant. (**Exhibit 2**) (Existing Conditions Plan); (**Exhibit 5**) (Site Photographs). DSA proposes to erect a new five-story mixed use building as part of its four-lot (Lots 3, 4, 5, 6) mixed use project (the “Project”) (**Exhibit 1a.**) to redevelop portions of Deer

Street, Hill Street and Foundry Place. The Project also intends to create community space on Lot 2, all in coordination with the construction of the new City parking garage. **(Exhibit 1d.)**

The proposed uses for the Property include a commercial/retail space, café and hotel, with associated retail and valet-only parking on the lower level. **(Exhibit 1d.)** Seventy-two parking spaces are provided within the building and twenty-five are provided in the City parking garage pursuant to the terms of the City-DSA Post-Closing Obligations Agreement (“PCOA”) and as permitted by PZO Section 10.1113.111.¹ To reduce the overall parking area and maintain commercial uses on the first floor, pursuant to PZO Section 10.5A.41.10D, DSA proposes the use of two-car parking lifts for sixty-two of the in-building spaces. **(Exhibit 1c-d.)** The 10 non-lift spaces within the building will be used for one-hour parking for retail customers of the Property during business hours only and then open to hotel valet use overnight. The 62 lift spaces will be valet-only at all times with proper signage and traffic control – no guests or other members of the public will operate the lift systems.

The Property is located in the City’s North End, CD5 Zone, and Downtown Overlay District. Retail, restaurant and hotel uses are permitted in the CD5 Zone, the intent of which is to provide for higher density development and greater lot coverage.² Building 3 meets this intent and complies with all applicable coverage, height and general setback requirements.³ Limited relief is required from the Portsmouth Zoning Ordinance (“PZO”) due to the proximity of the building to a railroad right of way (same distance as Building 4 and the City Parking Garage) and to allow the use of a parking lift system.

III. Relief Required

1. Section 10.516.20 – To permit a 5-foot rear yard adjoining a railroad right of way where 15 feet is required.

The proposed building meets the setback requirements for the CD5 Zone. However, because the Property adjoins a railroad right of way for the Boston and Maine Railroad (“B&M”), it is subject to a 15 foot railroad setback. B&M has granted DSA a covenant

¹ Per PZO § 10.1113.111, “Required parking spaces may be located on a separate lot from the principal use which they serve where a municipally owned or operated covered parking facility is constructed as part of the overall development.

² See PZO §10.5A41.10D providing a maximum building coverage of 95% and minimum front lot line build out of 80%.

³ On April 18, 2017 the ZBA granted variances for Lot 4, which provides access and services benefitting Lot 5, and relief from the 15’ railroad yard setback.

prohibiting the construction of any buildings or walled structures within 10 feet of its adjoining property boundary. **(Exhibit 3)** It is unlikely that any new track will be installed in the covenant area given the limited distance from the existing rail line. Thus, as the ZBA found in granting an identical variance for Lot 4, B&M is satisfied that its right of way is adequately protected. Accordingly, the resulting 10-foot no-build covenant combined with the 5 foot setback maintains the intent of the 15 foot structure setback requirement of Section 10.516.20.

2. Section 10.11.14.21 – To allow 62 in-garage spaces utilizing a two car lift system in each bay where the lift does not meet the parking space width and depth requirements.
3. Section 10.11.14.32(a) – To permit a lift system which requires passing over another parking space or moving another vehicle where both requirements are prohibited.

While the underlying spaces, at 8.5 feet wide by 19 feet long, meet the dimensional requirements of PZO Section 10.11.14.21, the lift dimensions are slightly smaller, requiring relief for these spaces. **(Exhibit 4)** (Example Lift Cut Sheets).⁴ Additionally, use of the valet-only lift system will require passing over other spaces and/or moving another vehicle to access the lift spaces.

IV. Variance Requirements

1. **The variances will not be contrary to the public interest.**
2. **The spirit of the ordinance is observed.**

The first step in the ZBA's analysis is to determine whether granting a variance is not contrary to the public interest and is consistent with the spirit and intent of the ordinance, considered together pursuant to Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102 (2007) and its progeny. Upon examination, it must be determined whether granting a variance "would unduly and to a marked degree conflict with the ordinance such that it violates the ordinance's basic zoning objectives". Id. "Mere conflict with the zoning ordinance is not enough". Id.

⁴ DSA has not made a final determination as to its final lift supplier. **Exhibit 4** is provided as a representative example of the general lift dimensions. The dimensions of the final lift system may vary slightly; regardless of the chosen model, the lift dimensions will be slightly smaller than 8.5' by 19', requiring relief from PZO Section 10.11.14.21.

The purpose of the Portsmouth Zoning Ordinance as set forth in PZO Section 10.121 is “to promote the health, safety and the general welfare of Portsmouth and its region in accordance with the City of Portsmouth Master Plan... [by] regulating”:

1. The use of land, buildings and structures for business, industrial, residential and other purposes – Retail, restaurant and hotel uses are permitted in the CD5 Zone. The requested relief permits higher density construction on the Property, consistent with the general intent of the district. The railroad is protected to the extent it deems necessary by the recorded restrictive covenant.

2. The intensity of land use, including lot sizes, building coverage, building height and bulk, yards and open space – The Property meets all applicable lot size, coverage, height and and bulk, yard and open space requirements for the CD5 Zone. While technically non-compliant with the 15-foot railroad setback, the intent is effectively met by the B&M building covenant. The use of parking lifts also allows the Property to meet the CD5 density and building coverage requirements by permitting together with spaces in the new garage, adequate parking availability within the building structure.

3. The design of facilities for vehicular access, circulation, parking and loading – Vehicular access to the Property is via the adjacent Lot 4, which was granted relief by the ZBA on April 18, 2017. Adequate parking is provided through the use of lifts and the City garage, allowing internal parking and maximizing the density of the lot consistent with the intent of CD5. Orderly parking and loading will be maintained through the use of a valet-only parking service.

4. The impacts on properties of outdoor lighting, noise, vibration, stormwater runoff and flooding – None of these are negatively affected by the requested relief, which provides internal parking, thereby limiting the impact of headlights and vehicle noise to adjacent properties. It also reduces the need for a large parking area and increases space available for additional building size, wide sidewalks and landscaping. Relief from the 15-foot railroad setback only impacts B&M, which is satisfied with the recorded covenant, and allows the proposed building to maintain a consistent setback with the City garage and abutting Building 4. Additionally, Planning Board site review will fully vet these issues.

5. The preservation and enhancement of the visual environment – The parking relief allows DSA to maintain parking within the building, visually shielding it from the surrounding properties. Relief from the 15-foot railroad setback maintains consistency with the City parking garage and Building 4.

6. The preservation of historic districts, and buildings and structures of historic or architectural interest – While not in the Historic District, the Property is part of the larger Deer Street redevelopment Project, requiring significant municipal review, including HDC review for Lots 4 and 5. Thus, the Property has and will continue to have close review by municipal boards with respect to its overall architectural design in conjunction with the rest of the Project.

7. The protection of natural resources, including groundwater, surface water, wetlands, wildlife habitat and air quality – The proposal meets all lot coverage and open space requirements. The variances requested relate to a specific setback and internal parking, which do not impact natural resources. In fact, the reduced parking area achieved through the use of lifts increases the space available for wide sidewalks as well as additional landscaping. Water related issues will be vetted by TAC and the Planning Board in the site review process.

Based upon the foregoing, none of the variances “in a marked degree conflict with the ordinance such that they violate the ordinance’s basic zoning objectives”. Malachy Glen, supra, which also held:

One way to ascertain whether granting the variance would violate basic zoning objectives is to examine whether it would alter the essential character of the locality... . Another approach to [determine] whether granting the variance violates basic zoning objectives is to examine whether granting the variance would threaten the public health, safety or welfare. (emphasis added)

CD5 is intended to promote higher density, multi-use development, precisely what is proposed for the Property. The Property abuts a railroad right of way to the rear and is to be developed pursuant to an overall development plan with the two adjoining parcels in cooperation with the City garage project. The proposal is consistent with the surrounding area and general intent of the CD5 zoning district. Parking, including use of the lifts, will not be seen or used by the general public. Accordingly, granting each variance will neither “alter the essential character of the locality,” nor “threaten the public health, safety or welfare”.

3. Granting the variance will not diminish surrounding property values.

The requested relief allows for the inclusion of parking within the building structure, thereby limiting impacts to nearby properties due to headlights, noise, and use of public parking. Locating the rear of the building five feet from the property boundary provides consistency of design with the adjoining Lot 4 and the City parking garage. B&M, the only potentially impacted party, has agreed to and conveyed a no-building covenant. That conveyance, combined with the underlying 5-foot CD5 setback requirement, is satisfactory to B&M and effectively meets the intent of the PZO. In light of these factors, and the redevelopment of the area as a whole, consistent with the intent of the PZO and Master Plan (compared to the site with Gary's Beverage in operation), granting the variances will not diminish surrounding property values.

4. Denial of the variances results in an unnecessary hardship.

a. Special conditions distinguish the property/project from others in the area.

The CD5 Zone promotes dense build-out of lots and first floor commercial use. When viewed in light of these requirements, the actual area available for parking on the Property is quite limited. Thus, relief is necessary to meet the density requirements while providing sufficient parking for the Property and the Project. The Property is also subject to a 15-foot railroad right of way setback; however, unlike a typical railroad bound parcel, the Property is benefitted by the 10-foot B&M no-building covenant. These conditions combine to create special conditions.

b. No fair and substantial relationship exists between the general public purposes of the ordinance and its specific application in this instance.

As noted, the intent of CD5 is to promote greater density and build-out of lots. To meet this intent, while maintaining compliance with the underlying dimensional requirements and providing an adequate number of parking spaces, DSA proposes the use of a parking lift system within the building. The purpose of the relevant parking regulations – passing over other parking spaces and providing adequate dimensions – relate to user safety and ease of use (i.e. maintaining proper traffic circulation within the parking area). Safety and proper traffic circulation will be maintained via the use of a valet-only service. The proposed building layout

complies with all coverage, height, open space and setback requirements, with the exception of the 15-foot railroad setback, the intent of which is to provide adequate distance between structures and a railroad right of way. The 10-foot no-building covenant together with the 5-foot setback meets this intent and demonstrates that B&M deems itself adequately protected. The variance also allows Building 3 to maintain a consistent rear yard setback with Building 4 and the City parking garage. For all of these reasons, there is no fair and substantial relationship between the general public purposes of these provisions of the PZO and their specific application to the Property.

c. The proposed use is reasonable.

If the use is permitted, it is deemed reasonable. Vigeant v. Hudson, 151 N.H. 747 (2005) The proposed use of the Property for retail, a restaurant and a hotel is permitted and is consistent with the overall intent of CD5 and the Master Plan to create higher density mixed use development in the area. As such, and for all of the reasons stated, this proposed use is reasonable.

5. Substantial justice will be done by granting the variance.

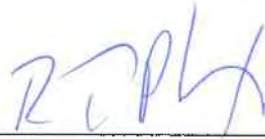
If “there is no benefit to the public that would outweigh the hardship to the applicant” this factor is satisfied. Harborside Associates, L.P. v. Parade Residence Hotel, L.L.C., 162 N.H. 508 (2011). That is, “any loss to the [applicant] that is not outweighed by a gain to the general public is an injustice”. Malachy Glen, supra at 109. Granting the variances allows DSA to maintain the required density and build-out requirements for the Property and the Project while providing adequate on-site parking. It also allows for consistent rear yard setbacks with Lot 4 and the City parking garage. Denying any of the variances provides no benefit the public. Conversely, denial deprives DSA the reasonable use and development of the Property. There is simply no benefit to the public that outweighs the harm to the owner if the requested variances are not granted. Denial would result in an unreasonable and unconstitutional taking of their rights.

V. Conclusion

For all of the reasons stated, DSA respectfully requests that the Portsmouth Zoning Board of Adjustment grant the submitted variance requests.

Respectfully submitted,

Deer Street Associates

A handwritten signature in blue ink, appearing to read 'R. Timothy Phoenix', is written over a horizontal line.

By: R. Timothy Phoenix
Kevin M. Baum

KMB/dmw
Encl.

cc: Deer Street Associates
JSA Architects
GeoInsight, Inc.
Steve Leonard, LEED AP

DEER STREET DEVELOPMENT, "LOT 3": 165 DEER STREET, ASSESSORS MAP 125 LOT 17

EXHIBIT
1a.

JSA

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ENGINEERED SYSTEMS INC.
MFPF ENGINEER
WOBURN, MASSACHUSETTS

ENGINEERED BUILDING SYSTEMS
ELECTRICAL ENGINEER
CERRY, NEW HAMPSHIRE

**DEER STREET
DEVELOPMENT,
"LOT 3": 165 DEER
STREET, ASSESSORS
MAP 125 LOT 17**

PORTSMOUTH, NH 03801

Deer Street Associates

Scale: **3/32" = 1'-0"**
Date: **4/25/2017**
Project Number: **14837.02**

REVISIONS		
NO.	DESCRIPTION	DATE

**B.O.A. VARIANCE
REQUEST**

COVER SHEET

T.01T

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DRAWING SHEET LIST BOA SUBMITTAL	
SHEET NO.	NAME
T.01T	COVER SHEET
T.02T	CHARTS
C3.0	SITE PLAN - DUA
A4.01 T	FIRST FLOOR PLAN
A2.02 T	EXTERIOR ELEVATIONS
A2.02 T	EXTERIOR ELEVATIONS

B.O.A. VARIANCE REQUEST

4/25/2017

REVISIONS		
NO.	DESCRIPTION	DATE

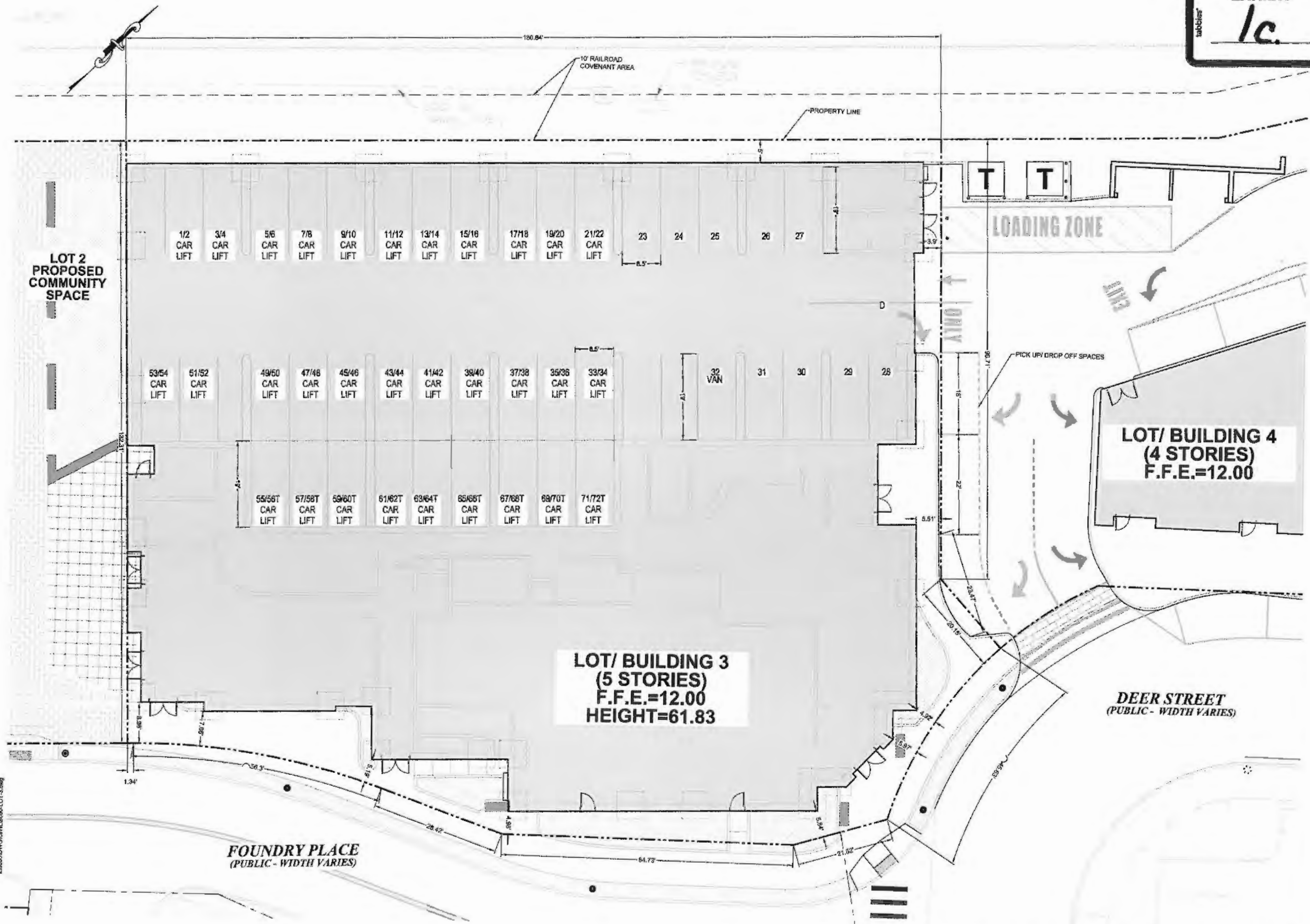


EXHIBIT
1d.

JSA

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**DEER STREET
DEVELOPMENT,
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MAP 125 LOT 17**

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Deer Street Associates

Scale: **As indicated**
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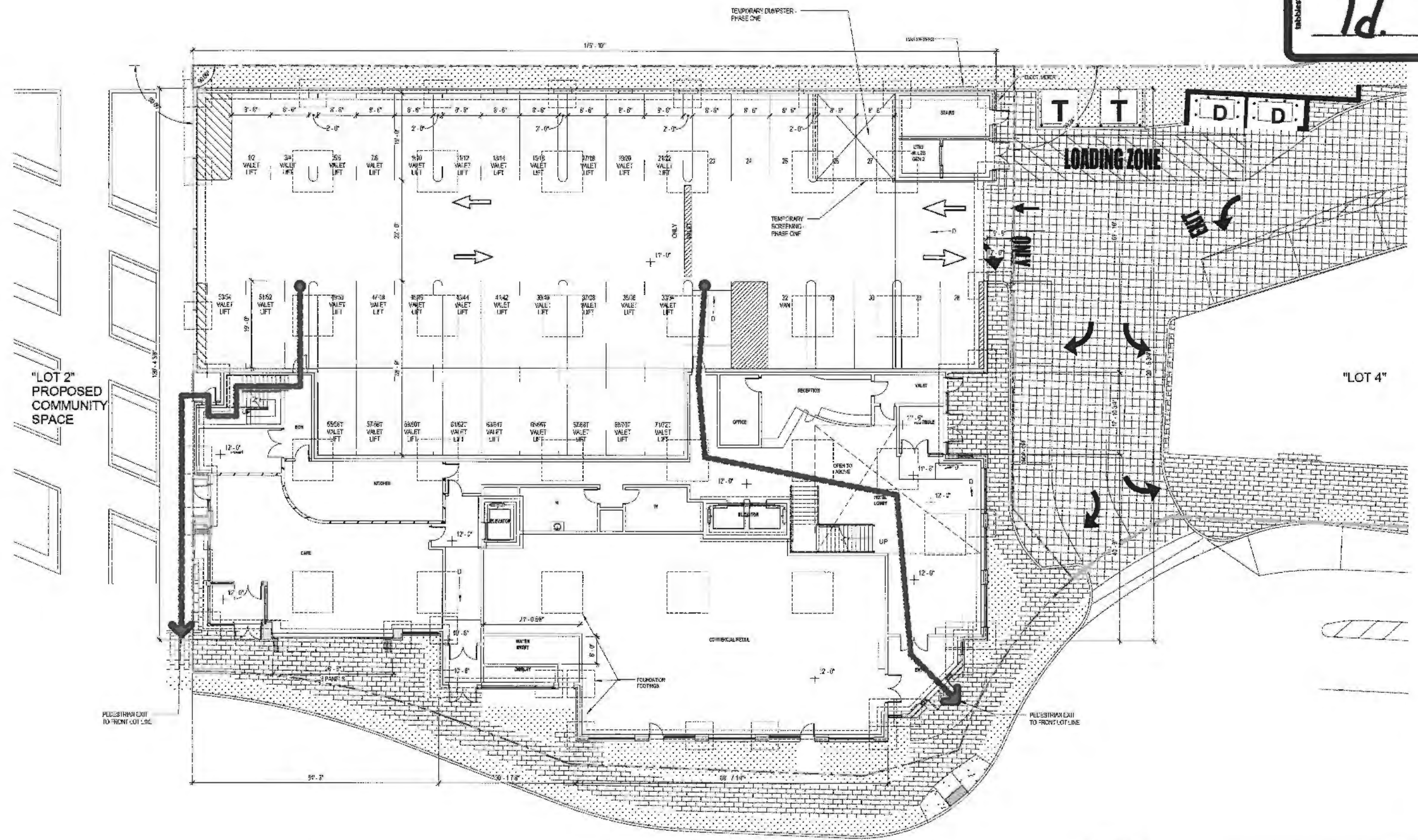
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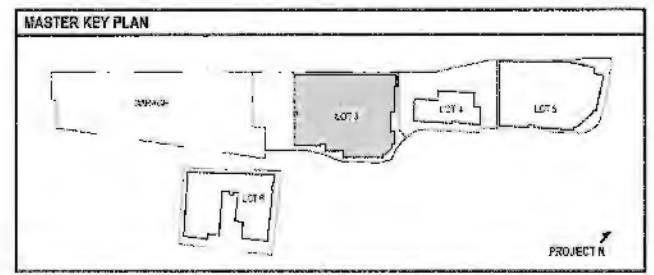
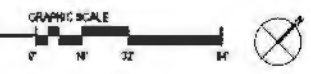
**FIRST FLOOR
PLAN**

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1 FIRST FLOOR PLAN
3/24" = 1'-0"



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**DEER STREET
DEVELOPMENT,
"LOT 3": 165 DEER
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MAP 125 LOT 17**

PORTSMOUTH, NH 03801

Deer Street Associates



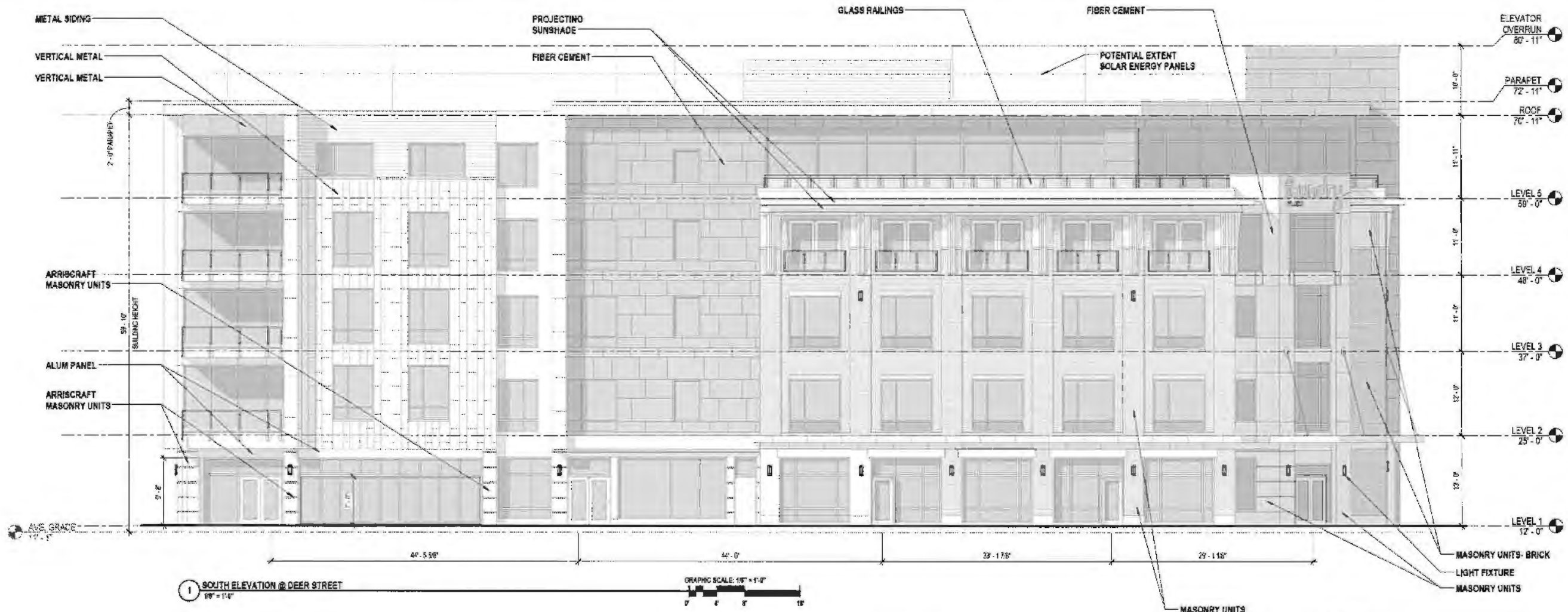
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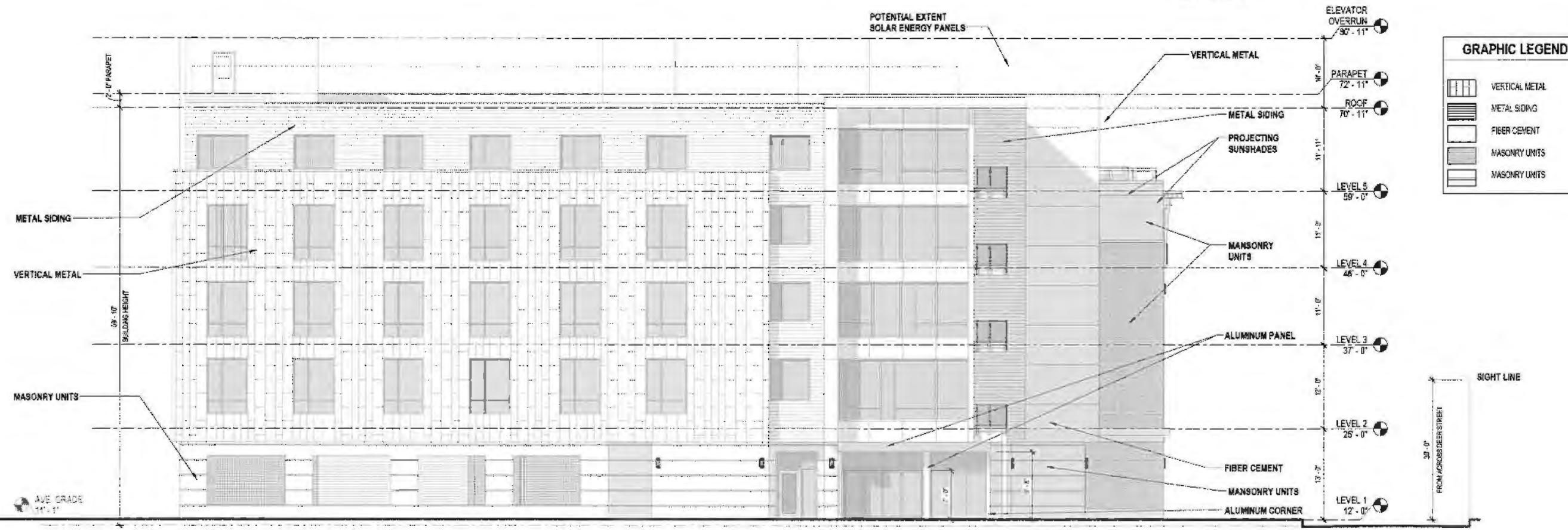
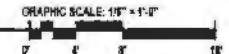
**B.O.A. VARIANCE
REQUEST
EXTERIOR
ELEVATIONS**

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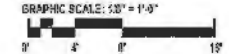
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1 SOUTH ELEVATION @ DEER STREET
1/8" = 1'-0"



4 WEST ELEVATION @ LOT 2
1/8" = 1'-0"



GRAPHIC LEGEND

	VERTICAL METAL
	METAL SIDING
	FIBER CEMENT
	MASONRY UNITS
	MASONRY UNITS

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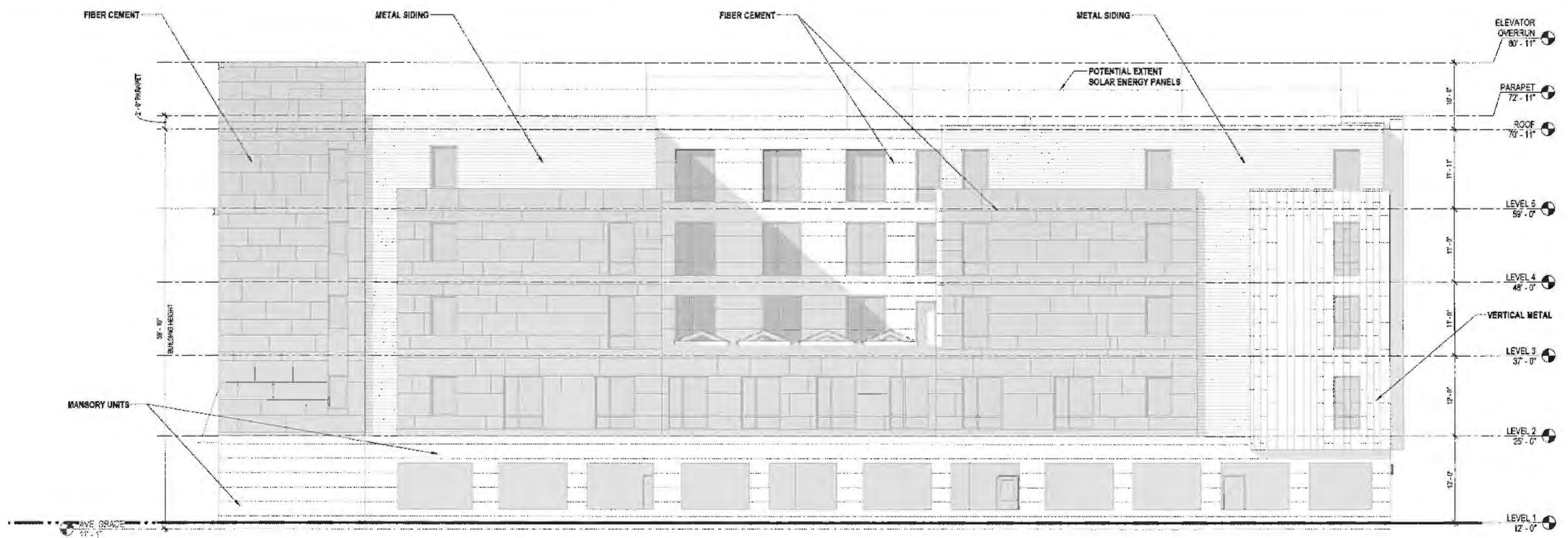
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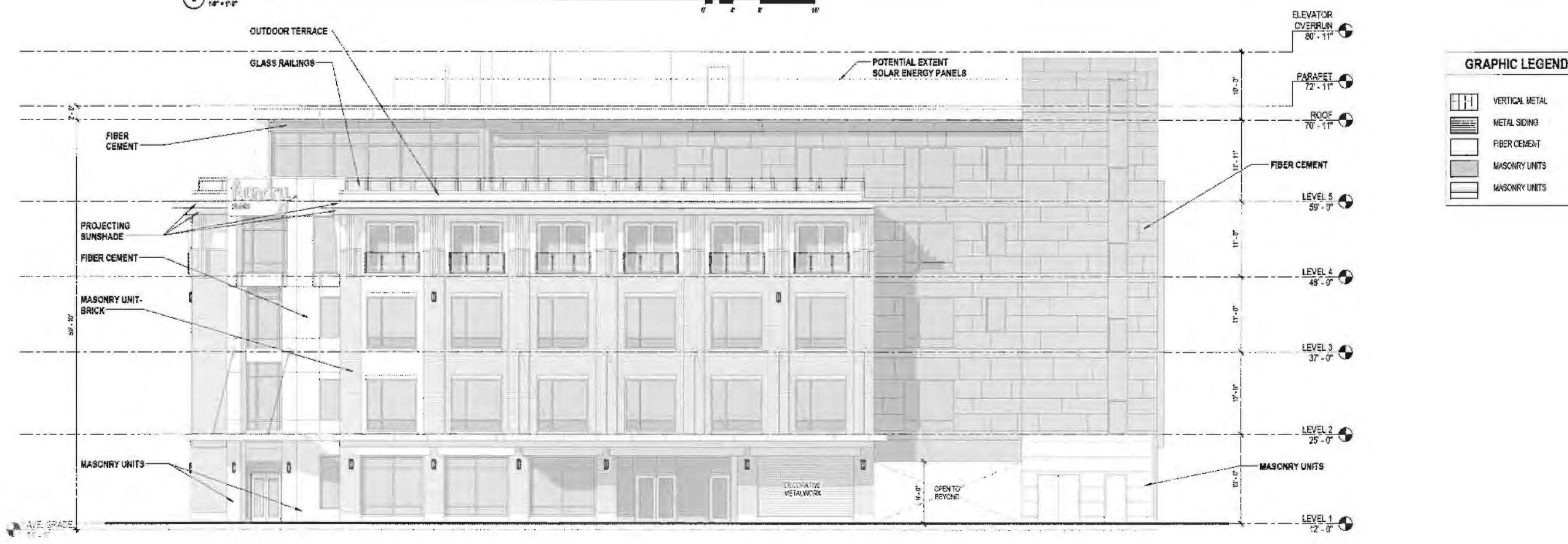
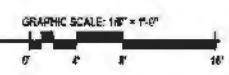
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MAP 125 LOT 17**

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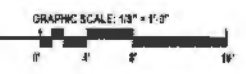
Deer Street Associates



2 NORTH ELEVATION @ R.R.
1/8" = 1'-0"



1 EAST ELEVATION @ LOT 4
1/8" = 1'-0"



GRAPHIC LEGEND

	VERTICAL METAL
	METAL SIDING
	FIBER CEMENT
	MASONRY UNITS
	MASONRY UNITS

Scale: **As indicated**
Date: **4/25/2017**
Project Number: **14637.02**

REVISIONS		
NO.	DESCRIPTION	DATE

**B.O.A. VARIANCE
REQUEST
EXTERIOR
ELEVATIONS**

A2.02 T

COPYRIGHT © 2017

4/25/2017 5:05:25 PM C:\Revit Projects\2016\2016-037-02 - Deer St. - Central - Current - Masonry.mxd

MAIL TO

After recording, return to:
Denis O. Robinson, Esq.
Bisbee Atwood LLP
One New Hampshire Avenue, Suite 350
Portsmouth, NH 03801

EXHIBIT
3



1 Thousand 7 Hundred 38 Dollars
DATE 01/18/2017 RECORD NO. R0067067 \$ 1738.00

002654

2017 JAN 18 PM 1:00

DECLARATION OF RESTRICTIVE COVENANT

KNOWN ALL BY THESE PRESENTS that **BOSTON AND MAINE CORPORATION**, a corporation duly organized and existing under the laws of the State of Delaware, with offices at Iron Horse Park, North Billerica, Middlesex County, Massachusetts, (the "Grantor"), for consideration paid, the receipt of which is hereby acknowledged, being the fee owner of that certain property located in the City of Portsmouth, County of Rockingham, State of New Hampshire more particularly described on Exhibit A attached hereto (the "Grantor Property"), which exhibit is incorporated herein and made a part hereof, hereby grants and imposes the following Covenant (as defined below) on said Grantor Property to and for the benefit of **DEER STREET ASSOCIATES**, a New Hampshire limited partnership, with a mailing address of P.O. Box 100, York Harbor, Maine 03911, and all other present and future owners (collectively, the "Grantee") of Lots 1 through 5, inclusive (collectively, the "Lots") shown on that certain plan entitled "Consolidation & Subdivision Plan - Tax Map 125, Lot 17 & Tax Map 138, Lot 62 - Deer Street Associates - Bridge, Deer & Hill Streets - City of Portsmouth, County of Rockingham, State of New Hampshire - Scale 1" = 50' " dated July, 2015 and last revised 5/18/16 recorded in the Rockingham County Registry of Deeds as Plan D-39699, as follows:

ROCKINGHAM COUNTY
REGISTRY OF DEEDS

1. RESTRICTIVE COVENANT. Grantor hereby covenants with Grantee that no permanent or temporary building(s) used or intended for supporting or sheltering any use or occupancy or any other structures with a roof or walls (collectively, the "Buildings") shall be built, constructed, kept, or maintained upon the Grantor Property (the "Covenant"). Provided that the same are not Buildings, Grantor reserves the right to build, construct, keep and maintain within the Grantor Parcel (for the benefit of its adjacent railroad property) any infrastructure necessary for the operation and maintenance of a railroad transportation corridor, including but not limited to tracks, transportation signage, switches, and signals along with their respective controller equipment, together with such other non-Building infrastructure that may be necessary if the Grantor Property is used for non-railroad purposes, including roadways, lighting and utilities.

2. COVENANTS RUNNING WITH THE LAND. The terms and provisions and burdens and benefits of this Declaration of Restrictive Covenant shall run with the land and title to the Grantor Property and the Lots. This Declaration of Restrictive Covenant shall be binding upon and inure to the benefit of the owners thereof and their respective successors, legal

representatives, and assigns. The Grantor Property and the Lots shall be held, conveyed, transferred, assigned, sold, encumbered, leased, licensed, occupied and used subject to and with the benefit of this Declaration of Restrictive Covenant. Each grantee, transferee, assignee, lessee, sublessee, licensee or occupant of all or any portion of the Grantor Property and the Lots, together with their respective heirs, successors, assigns and mortgagees, shall be deemed by their acceptance of a deed, lease or other instrument conveying, transferring, assigning, leasing, licensing, encumbering or creating any interest in any portion of the Grantor Property and the Lots, or by their occupation of any portion of the Grantor Property and the Lots, to have covenanted and agreed to fully and timely observe, comply with and be bound by the terms and conditions of this Declaration of Restrictive Covenant. Every person or entity who owns, occupies or acquires any right, title, estate or interest in or to any portion of the Grantor Property and the Lots shall be conclusively deemed to have consented and agreed to every limitation, restriction, right, license, easement, reservation, condition and covenant contained herein, whether or not any reference hereto is contained in the instrument by which such person or entity acquired an interest in such portion of the Grantor Property and the Lots.

3. TERM. The Covenant granted hereunder is granted in perpetuity.

4. HEADINGS. Headings are for the convenience of reference only and shall not affect meanings or interpretations of this Declaration of Restrictive Covenant.

5. FURTHER ASSURANCES. The parties hereto agree to take all necessary actions to effectuate the provisions of this Declaration of Restrictive Covenant.

6. CONSTRUCTION AND INTERPRETATION OF AGREEMENT. This Declaration of Restrictive Covenant shall be governed by and construed under the laws of the State of New Hampshire. Any action brought to enforce or interpret this Declaration of Restrictive Covenant shall be brought in the court of appropriate jurisdiction in New Hampshire. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or considering same shall not apply the presumption that the terms hereof shall be more strictly construed against a party by reason of the rule or conclusion that a document should be construed more strictly against the party who itself or through its agent prepared the same. It is agreed and stipulated that all parties hereto have equally participated in the preparation of this Declaration of Restrictive Covenant and that legal counsel was consulted by each party before the execution of this Declaration of Restrictive Covenant.

7. SEVERABILITY. If any term or provision of this Declaration of Restrictive Covenant or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Declaration of Restrictive Covenant or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each other term and provision of this Declaration of Restrictive Covenant shall be valid and enforced to the fullest extent permitted by law.

8. ENTIRE AGREEMENT; AMENDMENTS; CANCELLATION. This Declaration of Restrictive Covenant embodies the entire agreement and understanding of the parties relating to the subject matter hereof and supersedes all prior representations, agreements,

and understandings, oral or written, relating to such subject matter. No amendments or modifications of this Declaration of Restrictive Covenant shall be effective without the prior written agreement of Grantor and Grantee and this Declaration of Restrictive Covenant may be cancelled or terminated only by the execution and recordation of a written instrument signed by Grantee and recorded in the Rockingham County Registry of Deeds.

IN WITNESS WHEREOF, the said BOSTON AND MAINE CORPORATION has caused this release deed to be executed in its name and its corporate seal to be hereto affixed by David A. Fink, its President, thereunto duly authorized this 16th day of January, 2017.

GRANTOR:
BOSTON AND MAINE CORPORATION


Witness

By: 
David A. Fink, President



COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

January 16, 2017

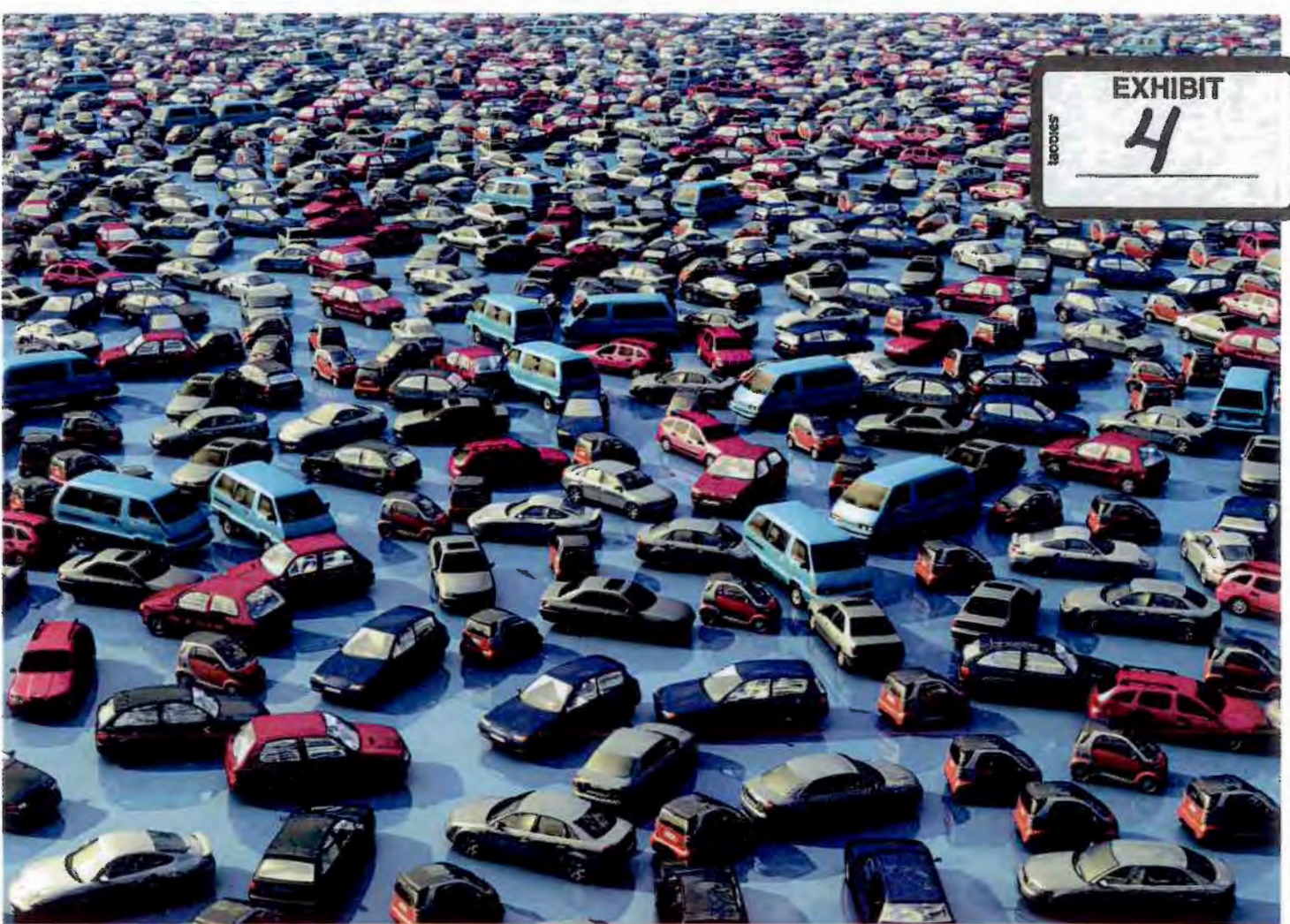
On this 16th day of January, 2017, before me, the undersigned notary public, personally appeared David A. Fink, President as aforesaid, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.


Notary Public
My Commission Expires:



EXHIBIT AGRANTOR PROPERTY
PORTSMOUTH, NEW HAMPSHIRE

Beginning at a point on the southeasterly sideline of an existing railroad corridor and land of the Boston and Maine Corporation at the division line between Lots 3 and 4 as shown on "Consolidation and Subdivision Plan, Deer Street Associates, July 2015" recorded at the Rockingham County Registry of Deeds as Plan D-39699; thence running S 43°06'02" W a distance of 595.80 feet along Lots 3, 2, and 1 and the southeasterly sideline of an existing railroad corridor to a point at land now or formerly of Peter Happny; thence turning and running across land of said Boston and Maine Corporation the following courses: N 46°09'30" W a distance of 10.00 feet to a point; thence N 43°06'02" E a distance of 656.10 feet to a point; thence N 30°51'54" E a distance of 55.61 feet to a point; thence N 31°17'20" E a distance of 40.14 feet to a point; thence N 43°06'02" E a distance of 147.46 feet to a point; thence N 31°26'32" E a distance of 17.92 feet to a point; thence N 43°07'25" E a distance of 48.84 feet to a point at the westerly sideline of Maplewood Avenue; thence turning and running along Maplewood Avenue along a curve turning to the right with an arc length of 10.03 feet, a radius of 486.00 feet, a delta angle of 01°10'56" to a point at the northeast corner of Lot 5 as shown on said Consolidation and Subdivision Plan; thence turning and running along land of said Boston and Maine Corporation and Lots 5 and 4 of said plan the following courses: S 43°07'25" W a distance of 47.08 feet to a point; S 31°26'32" W a distance of 17.92 feet to a point; thence S 43°06'02" W a distance of 147.45 feet to a point; thence S 31°17'20" W a distance of 39.07 feet to a point; thence S 30°51'54" W a distance of 56.64 feet to a point; thence S 43°06'02" W a distance of 61.50 feet which is the point of beginning, having an area of 9,657 square feet, more or less.



One becomes two: SingleVario 2061

In the future, two cars can fit where only one stood before. This is made possible by the new SingleVario 2061.

Now is the time to upgrade!

The new SingleVario 2061 is also the ideal solution if you want to extend the number of the parking spaces later.

Heavy vehicles

... are handled easily by the SingleVario 2061. With a maximum load of up to 2,500 kilograms, the SingleVario 2061 is ready to take on heavyweights.

Remain flexible:

The great advantage of the new SingleVario 2061 is the amount of flexibility it provides. It can be adapted at any time to the space available and to different vehicle heights. Even at a later time.



Get happy without the pits.

With the new SingleVario 2061, you can create extra space without a pit and park two vehicles one above the other. That reduces work and dirt, and therefore saves a considerable amount of money.


KLAUS
www.multiparking.com



Loadable up to 2600 kg! A system for all height! Subsequently adjustable!

Dimensions

All space requirements are minimum finished dimensions.

Tolerances for space requirements ⁺³/₀. Dimensions in cm.

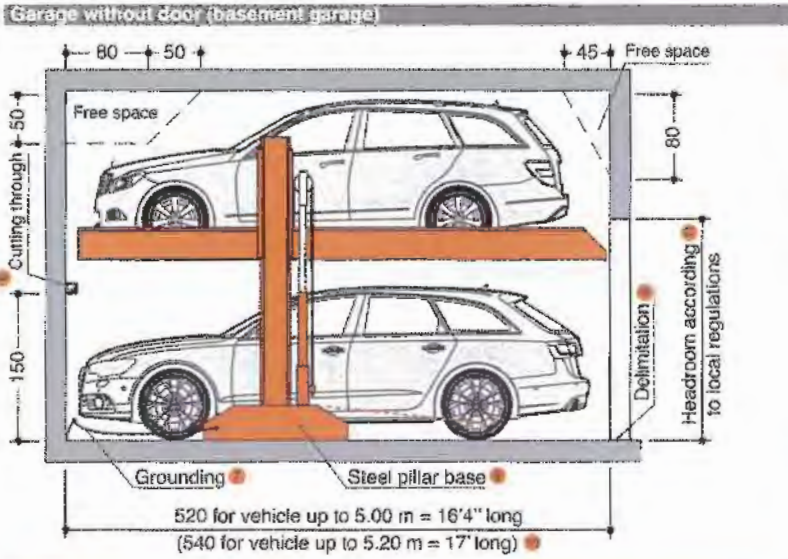
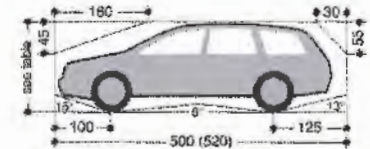
EB (single platform) = 2 vehicles

Suitable for

Standard passenger cars:
Limousine, station wagon, SUV, van according to clearance and maximal surface load.

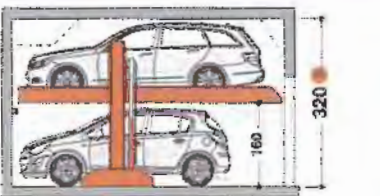
	Standard	Special
width	190 cm	190 cm
weight	max. 2000 kg	max. 2600 kg
wheel load	max. 500 kg	max. 650 kg

Clearance profile



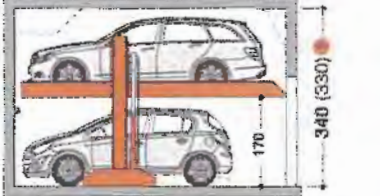
Before lowering the platform, the vehicle parked on the lower parking space must be driven off!

2061-160



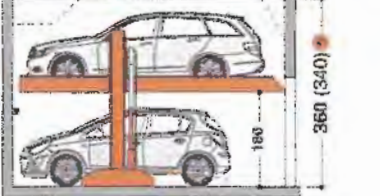
height	car height upper	car height lower
320	150	150

2061-170



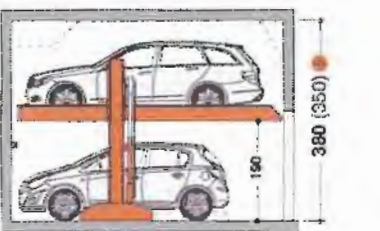
height	car height upper	car height lower
340 (330)	180 (150)	150 (160)

2061-185



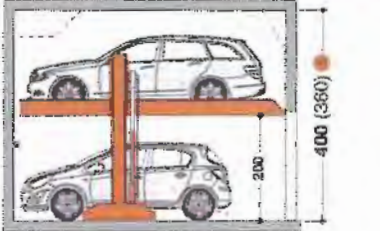
height	car height upper	car height lower
360 (340)	170 (150)	170 (170)

2061-190



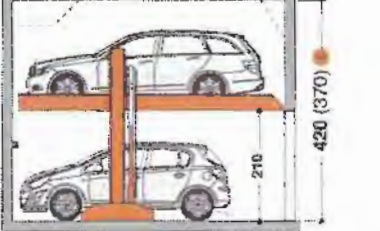
height	car height upper	car height lower
380 (350)	180 (150)	180 (180)

2061-200



height	car height upper	car height lower
400 (360)	190 (150)	190 (190)

2061-210



height	car height upper	car height lower
420 (370)	200 (150)	200 (200)

- Standard type
- Special system: maximum load for extra charge.
- To follow the minimum finished dimensions, make sure to consider the tolerances according to VOB, part C (DIN 18330 and 18331) and the DIN 18202.
- Car width for platform width 230 cm. If wider platforms are used it is also possible to park wider cars.
- If a higher ceiling height is available higher cars can be parked.
- For dividing walls: cutting through 10 x 10 cm.
- Potential equalization from foundation grounding connection to system (provided by the customer).

- In compliance with DIN EN 14 010, 10 cm wide yellow-black markings compliant to ISO 3864 must be applied by the customer to the edge of the platform in the access area to mark the danger zone in front of the supporting surface of the upper platform edge (see „Load Plan“ Page 4)
- Variable steel pillar bases in two sizes (see „Load Plan“ Page 4).
- For convenient use of your parking space and due to the fact that the cars keep becoming longer we recommend a length of 540 cm.
- Must be at least as high as the greatest car height + 5 cm.

Width dimensions for garage without door (basement garage)

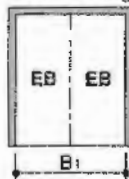
Dividing walls

Single Platform (EB)



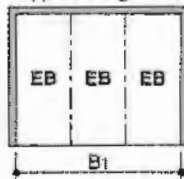
usable platform width	B1
230	260
240	270
250	280
260	290
270	300

Double arrangement (2 x EB)



usable platform width	B1
230	520
240	540
250	560
260	580
270	600

Tripple arrangement (3 x EB)

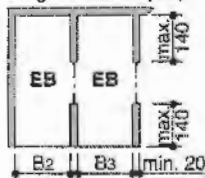


usable platform width	B1
230	780
240	810
250	840
260	870
270	900

Carrageway in accordance with local regulations

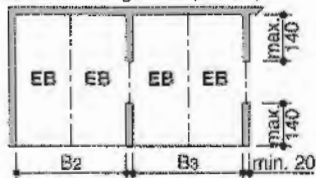
Columns in system zone

Single Platform (EB)



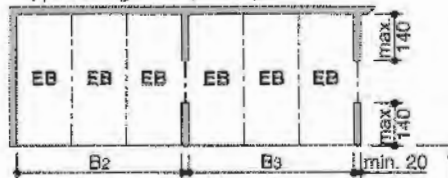
usable platform width	B2	B3
230	255	245
240	265	255
250	275	265
260	285	275
270	295	285

Double arrangement (2 x EB)



usable platform width	B2	B3
230	515	510
240	535	530
250	555	550
260	575	570
270	595	590

Tripple arrangement (3 x EB)

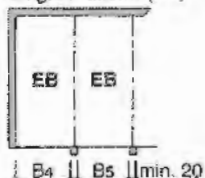


usable platform width	B2	B3
230	775	770
240	805	800
250	835	830
260	865	860
270	895	890

Carrageway in accordance with local regulations

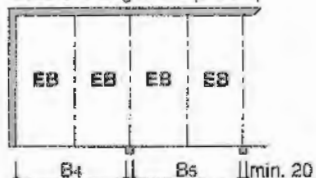
Columns outside of system zone

Single Platform (EB)



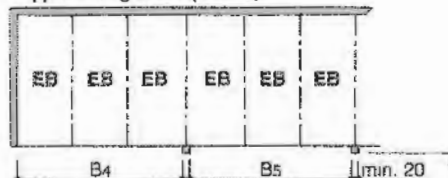
usable platform width	B4	B5
230	250	240
240	260	250
250	270	260
260	280	270
270	290	280

Double arrangement (2 x EB)



usable platform width	B4	B5
230	510	500
240	530	520
250	550	540
260	570	560
270	590	580

Tripple arrangement (3 x EB)



usable platform width	B4	B5
230	770	760
240	800	790
250	830	820
260	860	850
270	890	880

Carrageway in accordance with local regulations

! For parking boxes on the edges and boxes with intermediate walls we recommend our maximum platform width of 270 cm. Problems may occur if smaller platform widths are used (depending on car type, access and individual driving behaviour and capability).

For larger limousines and SUV wider driveways are necessary (in particular on the boxes on the sides due to the missing manoeuvring radius).

Page 1 Section Dimensions Clear data

Page 2 Width dim. without door

Page 3 Width dim. with door

Page 4 Approach

Page 5 Lead plate

Page 6 Installation Electrical installation

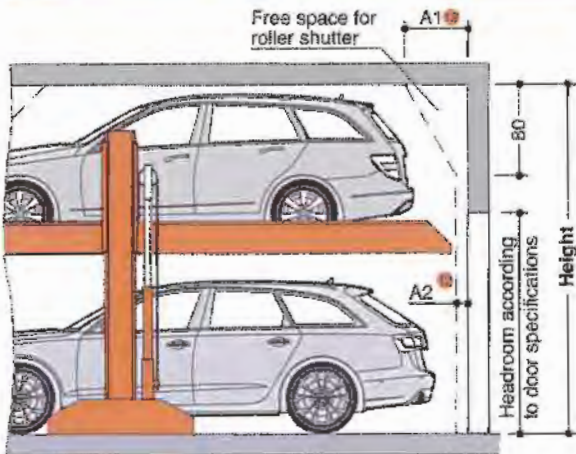
Page 7 Technical data

Page 8 To be performed by the customer

Page 9 Description

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Width dim
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To be performed by the
customer
Disassembly

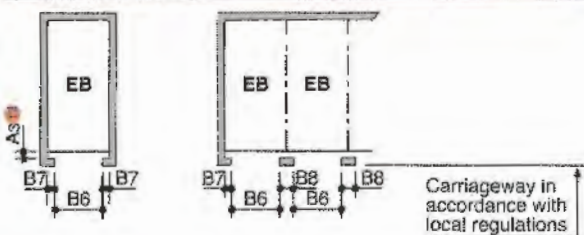
Garage with door



- 1 Dimensions A1, A2 and A3 must be coordinated with the door supplier (provided by the customer).
- 2 Seat-engaging surface (dimensions require coordination with door supplier.) Allround door dimensions require coordination between door supplier and local agency of KLAUS Multiparking.

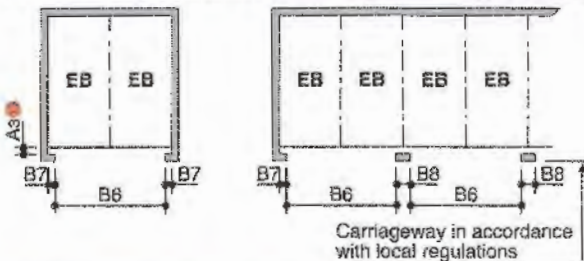
Width dimensions for garage with door

Single platform (EB)



usable platform width	door entrance width B6	B7	B8
230	230	15	30
240	240	15	30
250	250	15	30
260	260	15	30
270	270	15	30

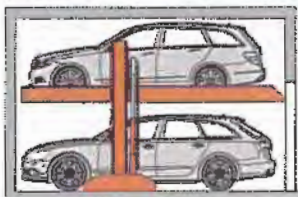
Double arrangement (2 x EB)



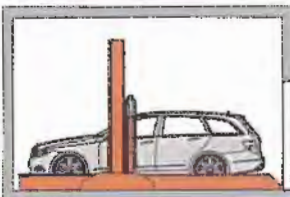
usable platform width	door entrance width B6	B7	B8
230	490	15	30
240	510	15	30
250	530	15	30
260	550	15	30
270	570	15	30

Function

System lifted

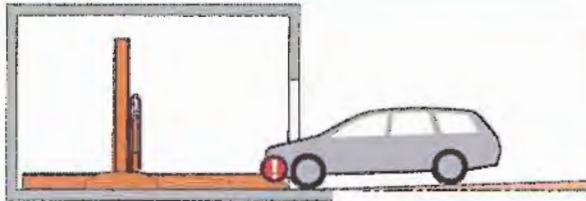


System lowered

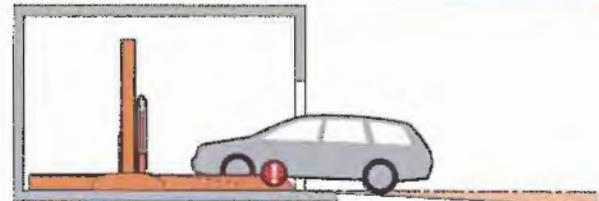


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Section:
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with door
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To be perfo-
med by the
customer
Description

Approach



maximum
descending
slope 4 %



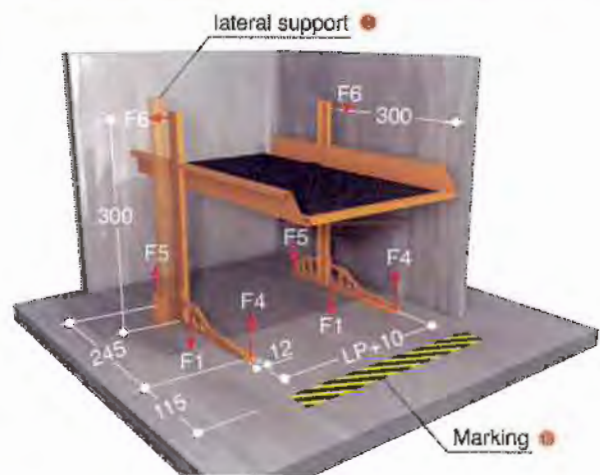
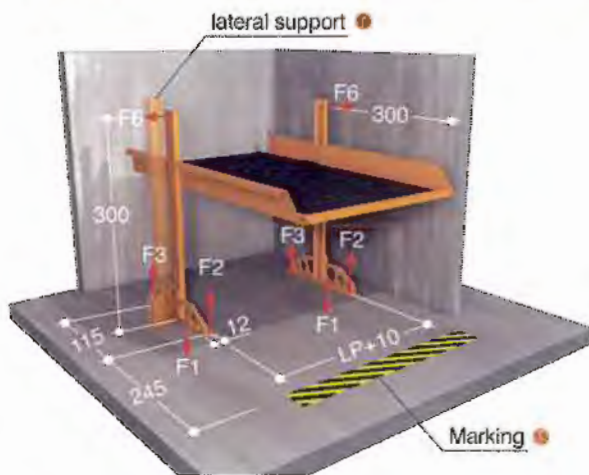
maximum
ascending
slope 14 %

! The illustrated maximum approach angles must not be exceeded. Incorrect approach angles will cause serious manoeuvring & positioning problems on the parking system for which the local agency of KLAUS Multiparking accepts no responsibility.

Load plan

Option 1: short steel pillar base

Option 2: long steel pillar base



platform load	F1	F2	F3	F4	F5	F6
2000 kg	30	1.1	7.4	0.5	7.7	±1
2600 kg	35	1.3	8.9	0.6	9.3	±1

! The steel pillar base can be selected optionally (short or long). Please make sure to note the corresponding forces that apply!

Units are dowelled to the floor. Drilling depth: approx. 15 cm.

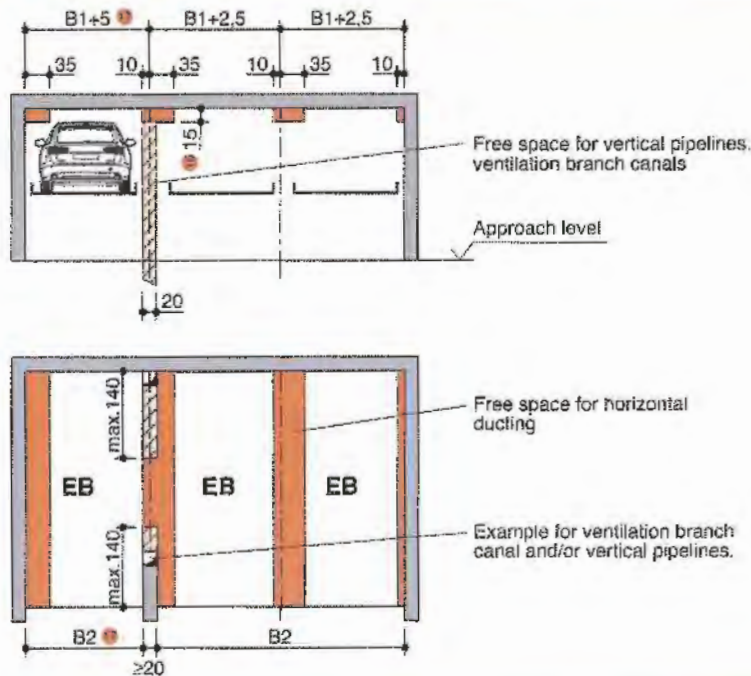
Floor and walls are to be made of concrete (quality minimum C20/25)!

The dimensions for the points of support are rounded values. If the exact position is required, please contact KLAUS Multiparking.

- !** The system must be laterally supported on both sides. If there are no walls on the sides, an additional stand must be attached. For this stand, a base area of 40 x 25 cm is required (quality minimum C20/25).
- !** Marking compliant to ISO 3864 (colors used in this illustration are not ISO 3864 compliant)
- !** All forces in kN

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Car (300)
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Width dim.
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To be performed
by the customer
Dimension

Installation data – Free space for longitudinal and vertical ducts (e.g. ventilation)

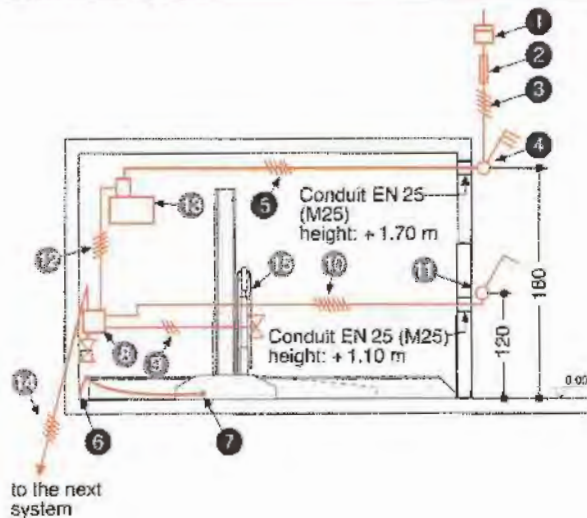


! Free space only applicable if vehicle is parked forwards = FRONT FIRST and driver's door on the left side.

- Size 15 cm is reduced to 5 cm for type 2061-160.
- Dimensions B1, B2 and B3 see page 2.

Electrical installation

Installation diagram



Electrical data (to be performed by the customer)

No.	Quantity	Description	Position	Frequency
1	1	Electricity meter	in the supply line	
2	1	Main fuse: 3 x fuse 16 A (slow) or circuit breaker 3 x 16 A (trigger characteristic K or C)	in the supply line	1 per unit
3	1	Supply line 5 x 2.5 mm ² (3 PH + N + PE) with marked wire and protective conductor	to main switch	1 per unit
4	1	Lockable main switch	defined at the plan evaluation	1 per unit
5	1	Supply line 5 x 2.5 mm ² (3 PH + N + PE) with marked wire and protective conductor	from main switch to unit	1 per unit
6	every 10 m	Foundation earth connector	corner pit floor	
7	1	Equipotential bonding in accordance with DIN EN 60204 from foundation earth connector to the system		1 per system

Electrical data (included in delivery of KLAUS Multiparking)

8	Terminal box
9	Control line 3 x 0.75 mm ² (PH + N + PE)
10	Control line 7 x 1.5 mm ² with marked wire and protective conductor
11	Operating device
12	Control line 5 x 1.5 mm ² with marked wire and protective conductor
13	Hydraulic unit 3.0 kW, three-phase current, 230/400 V / 50 Hz
14	Control line 5 x 1.5 mm ² with marked wire and protective conductor
15	Chain control

Page 1	Sector
Dimensions	
Page 2	Width and without door
Page 3	Width and with door
Page 4	Electrical installation
Page 5	Technical data
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Technical data

Field of application

By default, the system can only be used for a fixed number of users.

If different users use the system – only on the lower parking spaces – (e.g. short-time parkers in office buildings or hotels) the Multiparking system needs to be adjusted. If required, would you please contact us.

Units

Low-noise power units mounted to rubber-bonded-to metal mountings are installed. Nevertheless we recommend that parking system's garage be built separately from the dwelling.

Available documents

- wall recess plans
- maintenance offer/contract
- declaration of conformity
- test sheet on airborne and slid-borne sound

Environmental conditions

Environmental conditions for the area of multiparking systems: Temperature range -10 to $+40^{\circ}$ C. Relative humidity 50% at a maximum outside temperature of $+40^{\circ}$ C.

If lifting or lowering times are specified, they refer to an environmental temperature of $+10^{\circ}$ C and with the system set up directly next to the hydraulic unit. At lower temperatures or with longer hydraulic lines, these times increase.

Sound insulation

According to DIN 4109 (Sound insulation in buildings), para. 4, annotation 4, KLAUS Multiparkers are part of the building services (garage systems).

Normal sound insulation:

DIN 4109, para. 4. Sound insulation against noises from building services.

Table 4 in para. 4.1 contains the permissible sound level values emitted from building services for personal living and working areas. According to line 2 the maximum sound level in personal living and working areas must not exceed 30 dB (A).

Noises created by users are not subject to the requirements (see table 4, DIN 4109).

The following measures are to be taken to comply with this value.

- Sound protection package according to offer/order (KLAUS Multiparking GmbH)
- Minimum sound insulation of building $R'_{w} = 57$ dB (to be provided by customer)

Increased sound insulation (special agreement):

Draft DIN 4109-10. Information on planning and execution, proposals for increased sound insulation.

Agreement: Maximum sound level in personal living and working areas 25 dB (A). Noises created by users are not subject to the requirements (see table 4, DIN 4109).

The following measures are to be taken to comply with this value.

- Sound protection package according to offer/order (KLAUS Multiparking GmbH)
- Minimum sound insulation of building $R'_{w} = 62$ dB (to be provided by customer)

Note: User noises are noises created by individual users in our Multiparking systems. These can be noises from accessing the platforms, slamming of vehicle doors, motor and brake noises.

Building application documents

According to LBO and GaVo (garage regulations) the Multiparking systems are subject to approval. We will provide the required building application documents.

Care

To avoid damages resulting from corrosion, make sure to follow our cleaning and care instructions and to provide good ventilation of your garage.

Corrosion protection

See separate sheet regarding corrosion protection.

Railings

If there are traffic routes next to or behind the installations, railings compliant to DIN EN ISO 13857 must be installed by the customer. Railings must also be in place during construction.

CE Certification

The systems on offer comply with DIN EN 14010 and EC Machine Directive 2006/42/EC. Furthermore, this system underwent voluntary conformity testing by TÜV SÜD.

ZERTIFIKAT ◆ CERTIFICATE ◆ 認證證書 ◆ CERTIFICADO ◆ CERTIFICADO



Certificate concerning the examination of conformity

Certificate no.	XP 6691
Certification body.	TÜV SÜD Industrie Service GmbH Zertifizierungs- & Prüfzettel-Produkte der Förderstraße Golfstr. 10 70734 Heilbronn, Germany
Applicant / Certification holder.	KLAUS Multiparking GmbH Heinrich-Kunze-Str. 2 88319 Aichtal, Germany
Date of application.	2014-09-30
Manufacturer.	KLAUS Multiparking GmbH Heinrich-Kunze-Str. 2 88319 Aichtal, Germany
Product.	Eq. prot. for cover driven parking of motor vehicles
Type.	SingleVario 2061 EB 2.000 kg SingleVario 2061 EB 2.000 kg
Test laboratory.	TÜV SÜD Industrie Service GmbH Prüfzentrum für Produkte der Fahrzeugtechnik Professoren Maschinen der Fahrzeugtechnik Golfstr. 10 70734 Heilbronn, Germany
Date and number of the test report / mark of conformity.	2014-11-20 RP 6691
Test specifications.	2014-12-EC Annex DIN EN 14210
Validity.	This Certificate is valid until 2019-11-30
Result.	The equipment fulfils the requirements of the test specifications for the respective scope of application stated in the annex (page 1) of this cert. based on the mentioned conditions.
Date of issue.	2014-12-01

Certification only for the end brand




Chef No. 123456



To be performed by the customer**Safety fences**

Any constraints that may be necessary according to DIN EN ISO 13857 in order to provide protection, for pathways directly in front, next to or behind the unit. This is also valid during construction.

Numbering of parking spaces

Consecutive numbering of parking spaces.

Building services

Any required lighting, ventilation, fire extinguishing and fire alarm systems as well as clarification and compliance with the relevant regulatory requirements.

Warning

According to DIN EN 14 010, a warning that identifies this danger area must be placed in the entrance area that conforms to ISO 3864. This must be done according to EN 92/58/EWG for systems without a pit 10 cm from the edge of the platform.

Wall cutouts

Any necessary wall cuttings according to page 1.

Electrical supply to the main switch / Foundation earth connector

Suitable electrical supply to the main switch and the control wire line must be provided by the customer during installation. The functionality can be monitored on site by our filters together with the electrician. If this cannot be done during installation for some reason for which the customer is responsible, the customer must commission an electrician at their own expense and risk.

In accordance with DIN EN 60204 (Safety of Machinery, Electrical Equipment), grounding of the steel structure is necessary, provided by the customer (distance between grounding max. 10 m).

Description Single platform (EB)**General description**

Multiparking system providing dependent parking spaces for 2 cars, one on top of the other each. The lower vehicle parks directly on the floor plate. The vehicle parked on the bottom must be driven out before lowering the platform.

The height of the platform can be adjusted flexibly (even subsequently).

Adjustment of maximum load of 2.500 kg can be made subsequently. Dimensions are in accordance with the underlying dimensions of parking pit, height and width

The parking bays are accessed horizontally (installation deviation $\pm 1\%$).

Vehicles are positioned on the upper parking space using wheel stops on the right side (adjust according to operating instructions).

Operation via operating device with hold-to-run-device using master keys.

The operating elements are usually mounted either in front of the column or on the outside of the door frame

Operating instructions are attached to each operator's stand.

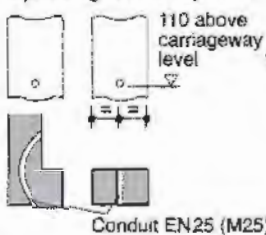
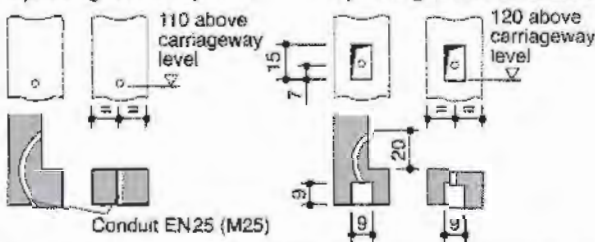
For garages with doors at the front of the parking system the special dimensional requirements have to be taken into account.

Multiparking system consisting of:

- 2 steel pillars with bases that are mounted on the floor (short or long steel pillar bases can be selected optionally).
- 2 sliding platforms (mounted to the steel pillars with sliding bearings)
- 1 platform
- 1 mechanic synchronization control system (to ensure synchronous operation of the hydraulic cylinders while lowering and lifting the platform)
- 1 hydraulic cylinder
- 1 automatic hydraulic safety valve (prevents accidental lowering of the platform while accessing the platform)
- Dowels, screws, connecting elements, bolts, etc.
- The platforms and parking spaces are end-to-end accessible for parking!

Operating device

Cable conduits and recesses for operating device (for double wing doors: please contact the local agency of KLAUS Multiparking).

Operating device exposed**Operating device concealed**

If the following are not included in the quotation, they will also have to be provided / paid for by the customer:

- Mounting of contactor and terminal box to the wall valve, complete wiring of all elements in accordance with the circuit diagram
- Costs for final technical approval by an authorized body
- Main switch
- Control line from main switch to hydraulic unit

Platforms consisting of:

- Platform base sections
- Adjustable wheel stops
- Canted access plates
- Side members
- Cross members
- Screws, nuts, washers, distance tubes, etc.

Hydraulic system consisting of:

- Hydraulic cylinder
- Solenoid valve
- Safety valve
- Hydraulic conduits
- Screwed joints
- High-pressure hoses
- Installation material

Electric system consisting of:

- Operating device (Emergency Stop, lock, 1 master key per parking space)
- Terminal box at wall valve
- Electrical locking device
- Chain control

Hydraulic unit consisting of:

- Hydraulic power unit (low-noise, installed onto a console with a rubber-bonded-to-metal mounting)
- Hydraulic oil reservoir
- Oil filling
- Internal geared wheel pump
- Pump holder
- Clutch
- 3-phase-AC-motor
- Contactor (with thermal overcurrent relay and control fuse)
- Test manometer
- Pressure relief valve
- Hydraulic hoses (which reduce noise transmission onto the hydraulic pipe)

We reserve the right to change this specification without further notice

KLAUS Multiparking reserves the right in the course of technical progress to use newer or other technologies, systems, processes, procedures or standards in the fulfillment of their obligations other than those originally offered provided the customer derives no disadvantage from their so doing.



Existing Conditions - View of Property to the Southwest (toward location of new City garage)



Existing Conditions – View of Property to the Southeast (towards Foundry Place)

**Exhibit 5
Site Photographs**



Existing Conditions - View of Property to the Northeast (toward Deer Street/Bridge Street)



Existing Conditions - View of Property to the north (toward railroad right of way/Deer Street)

**Exhibit 5
Site Photographs**

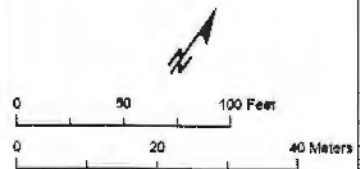


Aerial view of Property

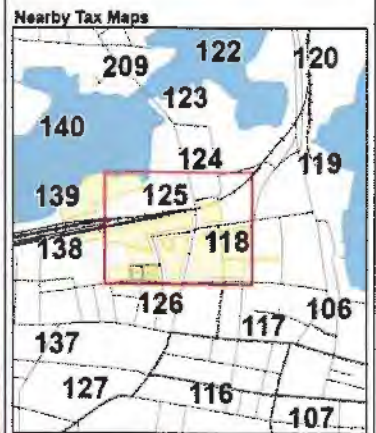
EXHIBIT
6



- See the
Z-5A
2.50 ac
- Address number
 - Parcel number from a neighboring map
 - Parcel the dimension
 - Street name
 - Parcel/Parcel boundary
 - Parcel/ROW boundary
 - Water boundary
 - Structure (1994 data)
 - Parcel covered by the map
 - Parcel from a neighboring map (see other map for current status)



This map is for assessment purposes only. It is not intended for legal description or conveyance. Parcels are mapped as of April 1. Building footprints are 2006 data and may not represent current structures. Streets appearing on this map may be paper (unbuilt) streets. Lot numbers take precedence over address numbers. Address numbers shown on this map may not represent posted or legal addresses.



Portsmouth, New Hampshire
2016
Tax Map 125



CITY OF PORTSMOUTH
Zoning Board of Adjustment Application

Department Use Only
Assessor Plan #
Zone
Lot #
Lot area
Date
Fee
By

Fill in below by printing in ink or typing / Complete all Blanks or indicate "N/A" if not applicable

Applicant Deer Street Associates
Owner of Record same
Applicant Street Address P.O. Box 100
Owner Street Address
Applicant City / State / Zip York Harbor, ME 03911
Owner City / State / Zip
Applicant phone (207) 363-3540
Owner phone
Applicant e-mail c/o tphoenix@hpgriaw.com

Location (street address) of proposed work: Lot/Building 3, 165 Deer Street

Existing use: Retail (former Gary's Beverage)

Undersigned hereby requests:

- Appeal from an Administrative Decision
Special Exception
[X] Variance
Other

To permit the following:

Construction of a 5-story mixed use building with associated internal parking on the Property.

The undersigned alleges that the required conditions exist for granting of this request according to the terms of the Zoning Ordinance as demonstrated in the attached submittals.

Only complete applications will be accepted by the deadline date. A complete application shall consist of: a completely filled out application with original signatures, the application fee, and 12 packets of required plans and any supporting documents or photos.

Signature of Owner Kim S. Rogers, Pres of Manager
Date 4-21-17

Please PRINT name here Kim S. Rogers

Applicant's Responsibilities

1. All applications for Variances and Special Exceptions must be submitted to the Planning Department prior to the published deadline. In the case of Appeals from an Administrative Decision, the appeal shall be filed no later than 30 days from the date of the action which is being appealed.
2. A Building Permit application must also be filed for the project for which zoning relief is being sought. The Building Permit application can be submitted with the Board of Adjustment application or filed prior. The Planning Department may waive this requirement when the application is for a substandard lot for subdivision purposes and no other zoning relief is required.
3. An applicant shall be one of the following: a) the owner of record of the property, or b) the holder of a valid purchase and sales agreement for the purchase of the subject property, or c) the holder of a valid option for the purchase of the subject property.
4. All applications shall include a written statement explaining how the request complies with the requirements of the Zoning Ordinance as provided in Article 2 (see Section 10.234.30 for Administrative Appeals, Section 10.233.20 for Variances, Section 10.232.20 for Special Exceptions).
5. It is the obligation of the applicant to submit adequate plans and exhibits in accordance with the terms of the Zoning Ordinance for all applications for Administrative Appeals, Variances, Special Exceptions, and Equitable Waivers.
6. One (1) original copy of a completed and signed "Board of Adjustment Application Check-List" shall accompany all applications.
7. For applications requesting dimensional relief, the minimum requirements for adequate plans shall include the following:


<ul style="list-style-type: none"> <input type="checkbox"/> Site Plan(s) showing existing and proposed conditions including: <ul style="list-style-type: none"> - Front, side and rear setback / yard dimensions (this is the distance from a structure to the lot line) - Lot dimensions - Abutting street(s) and street names - Driveways / accessways - Dimensions (size and height) of structures - Dimensions and location of parking spaces 	<ul style="list-style-type: none"> <input type="checkbox"/> Scale of all drawings and plans (the scale is the ratio of the drawing's size relative to the actual size) <input type="checkbox"/> Labeled photo(s) of existing conditions <input type="checkbox"/> Building plans and elevations of any <i>proposed</i> structures or additions <input type="checkbox"/> Interior floor plans for any renovations or expansion to existing structures
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8. For applications requesting relief from land use requirements, the minimum requirements for adequate plans shall include the following:

<ul style="list-style-type: none"> <input type="checkbox"/> Site Plan showing dimensions and location of parking spaces including the scale (the scale is the ratio of the drawing's size relative to the actual size) <input type="checkbox"/> Interior floor plans and/or exterior site plans showing the location of the proposed use(s) <input type="checkbox"/> Labeled photo(s) of existing conditions

9. Plans should be 8 1/2" x 11" in size, 11" x 17" plans may be used only if the plan would otherwise be unreadable.
10. The Planning Department is authorized by the Board of Adjustment to refuse applications which do not meet these minimum requirements. The Planning Department may also require additional information and/or exhibits as needed to illustrate the scope of the project. Public Hearings shall not be scheduled, advertised or held until such time as the minimum requirements for adequate plans have been submitted. The Board may postpone any application requiring more information prior to any action being taken.
11. The applicant shall submit one (1) original and eleven (11) copies of the application and any plans, exhibits, and supporting documents.
12. The applicant shall provide electronic files in Portable Document Format (PDF) of all submittals.

I have read the above list of responsibilities, have provided all required information, and such information is current, accurate, and complete to the best of my knowledge.


4-21-2017
(Applicant's Signature, date)

- The Applicant is encouraged to consider the following when completing the application:
- Provide neat and clear plans
 - Use of color or highlights is encouraged in order to identify pertinent areas on plans
 - Applicants are encouraged to review the application with a member of the Planning Department staff prior to submittal
 - All applicants are encouraged to discuss the project with impacted neighbors